Europe, leaving her alone and unprotected in her weakened and almost insane condition. During his absence the act of adultery was committed, for which he now seeks a divorce. *Held,* that the husband's conduct towards his wife had been so inequitable as to justify the application of the maxim, "He who comes into equity must come with clean hands," and the bill is dismissed. *Kretz* v. *Kretz* (1907), — N. J. Eq. —, 67 Atl. Rep. 378.

The court cites *Rooney* v. *Rooney* (1896), 54 N. J. Eq. 231, and *Derby* v. *Derby* (1870), 21 N. J. Eq. 36. The same position is taken in the following cases: *David* v. *David* (1855), 27 Ala. 222, *Morris* v. *Morris* (1859), 14 Cal. 76; *Waldron* v. *Waldron* (1890), 85 Cal. 251; *Harper* v. *Harper* (1860), 29 Mo. 301, and *Reed* v. *Reed* (1868), 4 Nev. 395. See also *Evans* v. *Evans* (1891), 82 Ia. 462. In *Derby* v. *Derby,* supra, Chancellor ZABRISKIE puts the doctrine in the following picturesque language: "A party who has negatively violated a solemn contract in its two most vital parts, to love and cherish, and has only performed it in the last and least, to support, comes into a court of equity with an ill grace to complain of a positive breach by the party whom he first injured. His hands are not unclean in the same sense which would apply if he had committed the same crime, but they were so weakened, blanched, and attenuated by wilful non-performance that they take but feeble hold on the horns of the altar of justice. Such a complainant cannot expect any favorable leaning of the court, but must present a case free from any reasonable doubt."

EVIDENCE—OPINION AS TO ONE'S PHYSICAL CONDITION—EXPERT TESTIMONY. —Plaintiff offered to prove the state of her health by the opinion of a layman, who saw her at the time she claimed the sickness occurred. *Held,* that the witness, not being shown to be a doctor or an expert in such matters, cannot be allowed to give his opinion. *Kirby et al.* v. *Western Union Telegraph Co.* (1907), — S. C. —, 58 S. E. Rep. 10.

The illness which the plaintiff wished to prove was in the nature of a severe cold. The holding is in accordance with the law of South Carolina, as previously laid down in *Seibles* v. *Blackwell,* 1 McMul. 56; but it is difficult to see any good reason for such a holding. It is the common experience that a layman can tell when a person appears ill, and so it has been held by the overwhelming weight of authority. *Milton* v. *Rowland,* 11 Ala. 732; *Brown* v. *Lester,* Ga. Dec., pt. 1, p. 77; *Chicago City Ry. Co.* v. *Van Vleck,* 143 Ill. 480; *Louisville, N. A. & C. R. R. Co.* v. *Wood,* 113 Ind. 544; *Baltimore & L. Turnpike Co.* v. *Cassell,* 66 Md. 419; *Smalley* v. *City of Appleton,* 70 Wis. 340; *Sherman* v. *Village of Owenton,* 21 N. Y. Supp. 137.

FOREIGN CORPORATIONS—RIGHT TO DO BUSINESS IN STATE CAN BECOME VESTED.—A state statute provides that the bringing of suit by a foreign corporation in the federal court shall *ipso facto* forfeit its right to do domestic business. A foreign corporation had come into the state at the state's invitation, and had been encouraged to buy up the domestic roads and had invested much money in improvements. *Held,* that a contract relation existed which

the state could not impair, and that the statute was unconstitutional. *Seaboard Air Line Ry. Co.* v. *Railroad Commission of Alabama* (1907), — C. C., M. D. Ala. —, 155 Fed. Rep. 792.

Foreign corporations have generally been held to be doing business in a state by a mere license which the state might revoke or modify at any time. The idea of a license is brought out in *Doyle* v. *Ins. Co.*, 94 U. S. 535; *Hartford Ins. Co.* v. *Perkins*, 125 Fed. 502; *Manchester Fire Ins. Co.* v. *Heiriott*, 91 Fed. 711; *Niagara Ins. Co.* v. *Cornell*, 110 Fed. 816; *Conn. Mut. Ins. Co.* v. *Spratley*, 172 U. S. 602; *Daggs* v. *Ins. Co.*, 136 Mo. 382, 38 S. W. 85; *Sandel* v. *Ins. Co.*, 53 S. C. 241, 31 S. E. 230; *The Aetna Iron & Steel Co.* v. *Taylor*, 3 Ohio N. P. 152; *State* v. *Standard Oil Co.*, 61 Neb. 28, 84 N. W. 413; THOMPSON ON CORPORATIONS, Vol. 6, § 7877, note 3. There is a recent tendency, which the principal case seems to illustrate, of seeing a contract relation between the foreign corporation and the state, and deciding that the right of remaining in the state has become vested and the corporation may not be arbitrarily ousted or have its right impaired. See *American Smelting & Refining Co.* v. *Colorado*, 204 U. S. 103, 27 Sup. Ct. Rep. 198; *Commonwealth* v. *Mobile & O. R. Co.*, 23 Ky. Law Rep. 784, 64 S. W. 451.

FOREIGN CORPORATIONS—SERVICE OF PROCESS ON—WHAT CONSTITUTES "DOING BUSINESS."—A foreign railroad corporation owned the stock and controlled the policy of a domestic railroad corporation, and both corporations were parts of one railroad system. The foreign corporation sent its trains and crews over the tracks of the domestic corporation. The expense of management of such trains was borne by the domestic corporation while on its tracks. The domestic corporation owned only a small rolling stock and no passenger cars. *Held*, the foreign corporation was not "doing business" in the state where the domestic road was incorporated so as to be liable to service of process; (the Chief Justice and Mr. Justice MOODY dissenting). *Peterson* v. *Chicago, R. I. & P. R. Co.* (1907), 205 U. S. 364, 27 Sup. Ct. Rep. 513.

This case, perhaps, goes a little farther than similar cases, which hold that having traffic arrangements in other states is not "doing business" there. *Earle* v. *Chesapeake & O. Ry. Co.*, 127 Fed. 237; *Penn. R. R. Co.* v. *Rogers*, 52 W. Va. 450, 45 S. E. 300, 62 L. R. A. 178. See also, *Com.* v. *Standard Oil Co.*, 101 Pa. St. 119, and *U. S.* v. *Amer. Bell Teleph. Co.*, 29 Fed. 17. On the general subject of service of process on foreign corporations see exhaustive note to *Eldred* v. *Amer. Palace Car Co.*, 45 C. C. A. 3. THOMPSON, COMMENTARIES ON CORPORATIONS, Vol. 6, § 8034, discusses the relation between the parent corporation and a sub-corporation, organized to exploit its business in another state. In such a case courts have held that a relation of principal and agent exists and make the foreign corporation liable to process. *Norton* v. *R. R. Co.*, 61 Fed. 618; *Van Dresser* v. *Navigation Co.*, 48 Fed. 202. The Supreme Court in the principal case has undoubtedly overruled these last two cases and, also, *Buie* v. *Chi., R. I. & P. Ry. Co.*, 95 Texas 51, 65 S. W. 27, 55 L. R. A. 861, which decides the relationship between the same two corporations is that of principal and agent. The principle which distinguishes a